

POLICE DEPARTMENT

Notice of Opportunity to Comment on Proposed Rule

Revision of Chapter 11 of Title 38 of the Official Compilation of Rules of the City of New York

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Police Commissioner (the “Commissioner”) by Section 434(b) of the New York City Charter and in accordance with the requirement of Section 1043 of the New York City Charter, that the Police Department proposes to amend Chapter 11 of Title 38 of the Official Compilation of Rules of the City of New York.

Written comments regarding the proposed rules may be sent to the New York City Police Department Legal Bureau, 1 Police Plaza, Room 1406, New York, New York 10038, by 5:00 pm on April 7, 2010. A public hearing shall be held on April 7, 2010 in the 1st Floor Auditorium at Police Headquarters at 1 Police Plaza New York, New York 10038 between 11:00 am and 2:00 pm. Persons seeking to testify are requested to notify the New York City Police Department Legal Bureau at the address stated above. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are asked to notify the New York City Police Department Legal Bureau at the foregoing address by April 5, 2010. Written comments and a tape recording of oral comments received at the hearing will be available for public inspections, within a reasonable time after receipt, between the hours of 9:00 a.m. and 5:00 p.m. in Room 1406, 1 Police Plaza, New York, New York 10038.

This proposal was not included in the Department’s regulatory agenda because the need for the amendment became known after publication of the regulatory agenda.

New material is indicated by underlining. Deletions are indicated by brackets.

Section 1. Sections 11-01, 11-02, 11-03 and 11-04 of Chapter 11 of Title 38 of the Official Compilation of the Rules of the City of New York, relating to the issuance of Working Press Cards, Reserve Working Press Cards, Single Event Working Press Cards and Press Identification Cards, are hereby REPEALED and new sections 11-01, 11-02 and 11-03 are added to read as follows:

§ 11-01 Press Card.

(a) The bearer of a Press Card may (i) with the approval of a supervising officer or a member of the Office of the Deputy Commissioner, Public Information of the New York City Police Department subject to safety, evidence preservation and privacy concerns, cross police, fire lines or other restrictions, limitations, or barriers established by the City of New York at emergency, spot or breaking news events and public events of a non-emergency nature where police, fire lines or other restrictions, limitations, or barriers established by the City of New York have been set up for security or crowd control purposes, within the City of New York; and (ii) subject to

space limitations, attend events sponsored by the City of New York which are open to members of the press.

(b) To be eligible to receive the Press Card an individual must be a member of the press who:

(i) Covers, in person, emergency, spot or breaking news events and/or public events of a non-emergency nature, where police, fire lines or other restrictions, limitations, or barriers established by the City of New York have been set up for security or crowd control purposes, within the City of New York; or

(ii) Covers, in person, events sponsored by the City of New York which are open to members of the press.

(c) An individual under subdivision (b) of this section must submit one or more articles, commentaries, books, photographs, videos, films or audios published or broadcast within the twenty-four (24) months immediately preceding the Press Card application, sufficient to show that the applicant covered in person six (6) or more events occurring on separate days described in subdivision (b) of this section.

(d) Members of the press are employees of news gathering organizations and self-employed newsmen and other individuals who gather and report the news, by publishing or broadcasting articles, commentaries, books, photographs, video, film or audio by electronic, print, or digital media such as radio, television, newspapers, magazines, wire, books, and the Internet.

(e) Emergency, spot or breaking news events include, but are not limited to, crime scenes, fires, train wrecks, bombings, and plane crashes.

(f) Public events of a non-emergency nature, include, but are not limited to, parades, demonstrations and other events occurring in public places.

(g) Events sponsored by the City of New York which are open to members of the press include, but are not limited to, local press conferences.

(h) Events sponsored by the City of New York open to the members of the press do not include meetings of City officials with individual members of the press.

(i) Supervisory or managerial personnel of a news gathering organization may be issued the Press Card if their responsibilities require that they cover the events specified in paragraphs (i) or (ii) of subdivision (b) of this section in person.

(j) The Press Card is issued every two (2) years and bears the name, photograph, and news organization, if appropriate, of the person to whom it is issued.

(k) An application for a Press Card shall be granted or denied no later than thirty (30) days after the individual submits a complete application for the Press Card. In the event the application for a Press Card is denied, the individual shall be advised in writing of the bases for denial.

§ 11-02 Reserve Press Card.

(a) The bearer of a Reserve Press Card has the same rights and privileges as a bearer of a Press Card under subdivision (a) of § 11-01 of this chapter.

(b) A Reserve Press Card is only issued to a news organization that retains and directs individual(s) to:

(i) cover, in person, emergency, spot or breaking news events and/or public events of a non-emergency nature, where police, fire lines or other restrictions, limitations, or barriers established by the City of New York have been set up for security or crowd control purposes, within the City of New York; or

(ii) cover, in person, events sponsored by the City of New York which are open to members of the press.

(c) A news organization under subdivision (b) of this section must submit six (6) articles, commentaries, books, photographs, videos, films or audios published or broadcast on separate days within the twenty-four (24) months immediately preceding the Reserve Press Card application that demonstrate the news organization complies with paragraphs (i) or (ii) of subdivision (b) of this section.

(d) Any editor or supervising employee of a news organization holding Reserve Press Card(s) may provide a Reserve Press Card to an individual retained by the news organization if:

(i) the individual does not have a Press Card under § 11-01 of this chapter; and

(ii) the news organization directs the individual to complete a specific assignment that requires the individual to:

(A) cover, in person, emergency, spot or breaking news events and/or public events of a non-emergency nature, where police, fire lines or other restrictions, limitations, or barriers established by the City of New York have been set up for security or crowd control purposes, within the City of New York; or

(B) cover, in person, events sponsored by the City of New York which are open to members of the press.

(e) Subdivisions (e) through (j) of § 11-01 of this chapter apply equally to this section.

(f) A news organization is any organization or entity that gathers and reports the news by publishing or broadcasting articles, commentaries, books, photographs, video, film or audio by electronic, print, or digital media such as radio, television, newspapers, magazines, wire, books, and the Internet.

(g) The individual provided a Reserve Press Card under subdivision (d) of this section must

return the Reserve Press Card back to the editor or supervising employee of the news organization once the editor or supervising employee has determined that the individual has completed the specific assignment for which it was issued.

(h) The Reserve Press Card is issued every two (2) years and bears the name of the news organization to which it is issued.

§11-03 Single Event Press Card.

a) The bearer of a Single Event Press Card has the same rights and privileges as a bearer of a Press Card under subdivision (a) of § 11-01 of this chapter for only a Single Event.

b) To be eligible to receive a Single Event Press Card for a Single Event an individual must be a member of the press, as defined in subdivision (d) of § 11-01 of this chapter, who:

1) follows the preregistration process set forth in subdivision (c) of § 11-03 of this chapter; and

2) applies for said Single Event Press Card in person:

a) no less than two (2) weeks before the Single Event if the Single Event was announced to the public at least two (2) weeks in advance of the Single Event; or

b) no later than two (2) days after the Single Event was announced to the public for a Single Event scheduled less than two (2) weeks in advance, with the exception that in case of exigent circumstances, such as a natural disaster, terrorist attack or other public emergency, the Public Information Division may permit the individual to apply by phone or by e-mail.

c) i) An individual must preregister by completing an application that includes personal identifying information, the name of the news organization that employs or retains the individual, if any, and a description of six (6) of the individual's most recent news publications; and

ii) each preregistration will be valid for two (2) years.

d) An application for a Single Event Press Card shall be granted or denied no later than two (2) business days before the scheduled event, except that in the case of applications submitted less than two (2) weeks before the scheduled event, the application shall be granted or denied as soon as practicable.

e) An individual must appear in person to obtain a Single Event Press Card if his or her application is granted.

f) A Single Event must be an event within the category of events described in § 11-01 of this

chapter.

Section 2. Sections 11-11 and 11-12 of chapter 11 of Title 38 of the Official Compilation of the Rules of the City of New York are hereby amended to read as follows:

§ 11-11 Hearing.

(a) Any person who is denied any of the above-described press credentials may appeal and request a hearing with respect to such decision, in writing, to the Commanding Officer, Public Information Division, within [ten (10)] twenty (20) days from the date of the denial. The applicant will be notified of a hearing date which shall be no more than thirty (30) days from receipt of the request for a hearing, unless there is a mutual agreement to another date.

(b) At such hearing the applicant will have the right to be represented by counsel.

(c) The Commanding Officer, Public Information Division, shall hold a hearing and issue a decision within forty-five (45) days of the conclusion of the hearing.

§ 11-12 Review by the Deputy Commissioner, Public Information.

If, after a hearing, the decision to deny the applicant's request for a press credential is upheld, the applicant will be advised in writing of the bases for denial of the application. An appeal of this decision may be made, in writing, to the Deputy Commissioner, Public Information, within [ten (10)] twenty (20) days of the date contained in the "Notice of Hearing Result." Any documentation in support of the appeal should be submitted with the request to the Deputy Commissioner, Public Information. The Deputy Commissioner, Public Information shall issue a written decision, setting forth the bases for denial in the event the denial is upheld, within thirty (30) days of the date when the appeal is received.

Statement of Basis and Purpose

The purpose of this proposed rule is to revise and clarify current procedures for issuing press credentials in order to ensure fair treatment of all individuals who demonstrate a need for press credentials, regardless of the form of media in which the individual intends to publish.

The rule defines "members of the press" to include individuals who gather and report the news for publication by means of print, radio, television, Internet and other forms of media. A member of the press can obtain a press card by demonstrating a need to cover in person a) news events that require crossing police lines or other barriers established by the City of New York, or b) events sponsored by the City of New York which are open to members of the press. Specifically, an applicant must submit one or more articles or other works published or broadcast in the previous twenty-four months to show that the applicant covered in person six or more different events of this nature.

The rule continues to provide for the issuance of Reserve Press Cards for news organizations, including on-line news organizations. It also provides for the issuance of Single Event Press Cards, but includes a new pre-registration process for individuals who are interested in these press credentials. The rule repeals section 11-04 of Title 38, which authorized the issuance of Press Identification Cards.

Finally, the rule establishes timeframes for granting or denying a press card application, and also for hearings and appeals concerning the denial of an application.